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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

SELLING LIVESTOCK ON COMMISSION UNDER THE
PACKERS AND STOCKYARDS ACT

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Address, Convention of the National Live Stock Exchange,
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I am glad to be here with you during your Convention, and I thank you for inviting me. It is a good idea for a group to get together to exchange views on problems of mutual interest and there probably have been few times when it was more necessary for men interested in buying and selling livestock on the central markets, as agents for others, to consider ways of meeting the problems that confront them.

As this is the first time I have had the privilege of meeting with you as a group, I should like to take a few minutes to outline briefly the general activities of the Agricultural Marketing Service. I realize how difficult it must be for you to keep in mind the functions of the various bureaus in Washington with which your business may bring you in touch. The Agricultural Marketing Service, as a new bureau in the Department of Agriculture, is not quite a year old. It is new, however, in name only. Most of its functions began 20 years or more ago, and one of them - the crop and livestock reporting work which observed its 75th anniversary 2 years ago - dates back to the beginning of the Department of Agriculture itself.

We come in contact with the livestock industry in connection with four phases of our work. Through the Crop Reporting Board and its related activities we furnish you with estimates of the number of various classes of livestock on farms and their estimated farm value. These figures are available for the whole country through no other source except the Census; and Census figures, of course, are obtainable only every 5 years. Reports on livestock are furnished frequently. From a small beginning 77 years ago this activity has been developed until now, in addition to the figures on livestock, estimates of acreages planted, yield, production, utilization, sales, price, and farm value are reported for more than 100 crops.

The best information obtainable as to supplies available and supplies to come is necessary to the plans of both farmers and business men. As problems of agricultural production and marketing have pressed for solution, demands for information showing current changes in the agricultural picture, in more and more detail, have been persistently urged by people in all walks of life. Reporting agricultural conditions as we do, and with the speed required if the information is to be of most value, is expensive. Only the Government is in position to do it. Our present crop and livestock reporting service is a tribute to the fine public spirit manifested by thousands of farmers and business men interested in agriculture. The official statistics are based on returns made by more than half a million people. More than 200,000 reporters - most of whom are farmers - report regularly each month. Some of them have reported for more than 50 years. They receive no compensation from the Government for their work, and there is no law that requires them to do it.

Through the issuance of daily livestock market reports we again come in direct contact with the livestock industry. This work was started at Chicago and several other large Corn Belt markets in 1918. Some of you will recall that the National Live Stock Exchange added its voice to those of other market and producer organizations in bringing about the Federal action necessary to begin that work. I shall not take time to discuss the reasons that brought this public service into existence, nor the methods used in its operation. You are all familiar with the service. But I should like to take this opportunity to express our appreciation for the cooperation we have received for many years from livestock commission men in carrying on this work. They have contributed a great deal to the accuracy of the reports and to the benefits obtained by the livestock industry as a whole. Market reports, similar to those for livestock, are also issued for fruits and vegetables, dairy and poultry products, cotton, tobacco, and several other farm products.

One of the important functions of the Agricultural Marketing Service is to develop grades by which the quality and condition of farm products may be described for merchandising purposes. Uniform standards of description, understood in all markets, are essential because buyers and sellers often negotiate at long distances and personal examination of the products may not be possible. Some of the standards, such as those for grain and cotton, are mandatory when those products are sold by grade. But the use of most of the standards we have developed is entirely voluntary, though more and more they are coming into daily use. Grades have been developed for several of the classes of livestock, but they have not come into general use in actual trading. They are the basis, however, for quoting the markets and serve an important purpose in that respect.

In all this standardization work it is necessary to carry on a program of continuous research not only for developing standards but for revising them to keep abreast of changing conditions and merchandising needs. There is a growing interest on the part of consumers for the grade designation to be marked on retail purchases as a guide to quality. The meat grading work done by the Agricultural Marketing Service is an illustration in point. During the last year something more than half a billion pounds, mostly fresh beef, were graded and the carcasses and wholesale cuts stamped with the grade name which remained on the meat until it reached the consumer. Extensive inspection work is carried on in connection with many other commodities. For example, more than half a million cars of fruits and vegetables were inspected by the Agricultural Marketing Service during the past year, largely in cooperation with State agencies.

Another important activity is in connection with the administration of various laws. In addition to the work I have previously mentioned, the Service is charged with the administration of 17 specific statutes. Among them are such laws as the United States Grain Standards Act, requiring the inspection of grain moving in interstate commerce; the Cotton Futures and Cotton Standards Acts; the United States Warehouse Act; the Tobacco Inspection Act; the Federal Seed Act; and the Perishable Agricultural Commodities Act, under which more than 20,000 handlers of fresh fruits and vegetables are required to be licensed by the Secretary of Agriculture for the purpose of preventing certain unfair practices.

I presume that you expect that most of my comments today will be directed toward problems arising in connection with the administration of the Packers and Stockyards Act. It has a direct bearing upon your business. A little over a year ago the administration of the Act was transferred from the Bureau of Animal Industry to the newly-created Agricultural Marketing Service. This was done because that act is similar to several other statutes administered through the Agricultural Marketing Service. The general policies for administering the act are, of course, directed by the Secretary of Agriculture, and they are well-established and generally known. The Agricultural Marketing Service has the daily duty, through its field supervisors and other representatives, of bringing about compliance with the provisions of the act and the regulations which have been promulgated by the Secretary of Agriculture for its administration.

In discharging these duties, it is our purpose to insure the fullest possible protection afforded by the act with a minimum of inconvenience and annoyance to those affected. The act was not intended to handicap or to be an unreasonable burden upon legitimate operations; it should serve as an aid rather than a hindrance to you in your business. What we seek - and I feel sure we will have the support of all market agencies, stockyard companies, and producer organizations - is the maintenance of free, open, and competitive markets at which

unfair trade practices are kept to a minimum. Under such conditions the producer may market his livestock with the assurance that he will obtain its full market value at the time it is sold for him, and that he will have to pay only just and reasonable charges for the services rendered by the agencies to whom he entrusts his property. We think that is about all that is necessary in order to carry out the intent of Congress.

We seek the cooperation of all concerned, and desire to use preventive measures wherever possible and thus obviate so far as we may the necessity of invoking the disciplinary provisions of the Act. When the law is specifically violated, however, and we can obtain evidence necessary to establish violation, the law will have to take its course.

I believe the men immediately engaged in the daily administration of the act have an appreciative understanding of your major problems. We realize the handicaps under which you are working. When the Packers and Stockyards Act was passed 19 years ago most of the livestock moving in interstate commerce cleared through the central markets. Congress accordingly provided for supervision on those markets and, in the public interest, sought to regulate buying and selling operations at such markets. Since then important changes have taken place in the marketing of livestock in this country. The market place has tended to move closer to the producer. Many small auctions, packer-buying stations, and local markets have sprung up. Packers have transferred much of their buying and some of their processing operations to points at some distance from the central markets.

This trend not only has affected the marketing of slaughter stock but also is in evidence in the marketing of feeders. Our statistics show that last year about 39 percent of the stocker and feeder cattle and calves, and 63 percent of the stocker and feeder sheep and lambs received in seven Corn Belt States were purchased elsewhere than at central markets. Many factors have no doubt contributed to this development. But the desire on the part of the Corn Belt and eastern feeders to obtain fresh feeder stock of uniform breeding and quality, direct from the range, and the equal desire on the part of producers to sell their livestock near home have been important factors in this change. Dissatisfaction with certain practices at public markets and with marketing costs probably also has played its part.

This change appears to have been largely a natural development and one which was to be expected as a result of good roads, the development of transportation by truck, certain advantages which have accrued to interior packers, and the desire of producers to sell at home. This decentralization has not been a violation of the Packers and Stockyards

Act, but it has moved many buying and selling operations away from supervised points and made possible practices that would not be permitted where it is possible to maintain adequate supervision. The process of decentralization has meant a reduced volume of business for you. For us it has made necessary the posting of more of the smaller yards (when they have an area of more than 20,000 square feet) and the spreading of our limited supervisory force over a broader territory.

The decreased volume of business to be handled by the same number of agencies and, in some cases, by an increased number, has intensified competition among the market agencies themselves. In an effort to survive, some agencies have engaged in practices which, if not actually illegal, certainly are questionable. We have actually found instances where commission firms have sold slaughter livestock to traders instead of to packers or order buyers, and the same lots have gone back to them from traders for resale. Passing livestock through several hands on a central market invites suspicion even though the price finally paid by the packer is no more than the commission firm obtained when the stock first arrived. Financing truckers to solicit consignments, without requiring them to disclose that they are operating as agents, is another practice which has developed in some places and has come in for considerable criticism. Loans and gratuities to truckers or shippers come under this same category.

Practices of this and a similar nature operate as a detriment to the central markets. Every time one of them is brought to light and given publicity, it tends to drive business away from the public yard. I am sure you recognize this situation, and that those who are interested in maintaining the central markets have common ground upon which to join together in an effort to discourage such practices and to assist us to suppress them to the extent that they are illegal. Certainly it is to the interest of commission men to report to us every indication of an unfair practice in order that, if it exists, the authority of the Packers and Stockyards Act may be invoked to protect those who do not try to take undue advantage by resorting to such practices.

We think that a great deal can be done by the market agencies themselves in policing their own operations. By so doing the market frequently can be saved from the publicity that inevitably accompanies any formal action taken by the Department regardless of the outcome.

We have watched with interest the forward step taken by your organization in cooperation with other agencies in formulating joint market improvement committees. By working together in a spirit of good will and cooperation, we think a great deal of good can be accomplished in improving public relations and relations between various branches of the industry. This is more than a self-policing idea. Some of your

methods of doing business have undergone little basic change in many years. Producers, individually and collectively, are better informed about market conditions than they were even a few years ago. Buyers are close students of prospective changes in supply and demand conditions. Large buyers and producer organizations employ men trained in analyzing present and prospective trade conditions. The successful livestock commission man, under present-day conditions, must be a close student of supply and demand conditions, a good judge of livestock, and an expert salesman. He must be able to render a superior type of service if he is to outstrip his competitors and hold the confidence of his shippers; and he cannot individually afford to hire experts to do it for him.

The market improvement committee, if made the most of, should be a force in modernizing central market procedure. It can serve to bring all elements together frequently to consider suggestions for improvement.

Some of the committees already have constructive action to their credit. An unhealthy situation at one of the posted markets was recently brought to light. It involved weighing-up by commission men, and interlocking relationships that operated against free and open trading. The situation was of such a nature that if steps had not been taken to improve it, the Department would have had to take action. Action on our part would take the form of an investigation and most likely a public hearing, with attendant unfavorable publicity for the market and all who operate on it. The firms involved would have spent a lot of money for lawyers, and when the show was over the law would have had to be complied with and the complained-of-practices discontinued. Instead, the market improvement committee has gone to work and, with understanding, persistence, and common sense, seems to be bringing about the necessary correction.

Then there is the problem of the number of market agencies now in business. It arises every time we consider commission rates for the larger markets. On several markets receipts have declined severely, but there has not been a corresponding decrease in the number of commission men. We can readily understand the problem created by this situation, but we do not have the answer.

As volume has declined and firms have reduced their payrolls, many displaced salesmen have started in the commission business on their own. Many of them had limited capital; many, perhaps, were not able to make the required bond, so they arranged to clear their business through other commission firms. And some commission firms are doing a sizeable business in clearing others. It is of interest to note that some Exchanges do not permit their members to furnish clearing services; others do. I do not know what you can do about it, or

whether you want to do anything about it. There is nothing illegal about it, so there is nothing that the Department can do. All we can require is reasonable bond, and we cannot, under the present statute, deny anyone the right to register as a market agency unless he is under suspension for having violated the act. But the practice of clearing is of your own making and is one important reason why markets are over-manned, and one of the causes for petitions to increase commission rates.

As a general observation on commission rates, we do not feel that increases in rates generally will improve the lot of commission men on central markets. They might have the opposite effect. Higher rates might divert more business away from the central markets. The Secretary of Agriculture is frequently petitioned for modifications of his rate orders to allow for certain increases in commission rates. Such petitions are proper. But in such cases, the burden of proof is on the petitioners.

Under present procedure, it is necessary that a hearing be held in each case. We have been holding these hearings in Washington. I cannot emphasize too strongly the need for petitioners to furnish substantial proof. What I have just said on the subject of rates is merely by way of general observation. Each petition received will be fully and fairly considered on its merits. The law contemplates reasonable rates. We must follow the principles laid down by the Secretary of Agriculture, and upheld by the courts, that reasonable rates should return the reasonable costs plus a reasonable profit to those concerns that are handling a reasonable volume of business in a reasonably efficient manner. So far as the Agricultural Marketing Service is concerned, however, in determining whether a tariff is reasonable, we feel we must give serious consideration to the number of firms actually needed to give adequate service for the volume of business available and in prospect. We believe that the best interests of producers and of the central markets require that consideration. We do not believe patrons of the market should be required to pay charges in excess of those necessary to obtain adequate service.

Our attention has been called to what appear to be unnecessary steps in market procedure. At one of the more important central markets a carload of slaughter cattle passed through the hands of several firms, after reaching the market, before the cattle were finally purchased by the packer. Each firm handling this shipment took some toll. Perhaps that was necessary. But if those cattle passed through several hands, with each trader selling them at a higher price than he paid for them, it seems to raise a reasonable doubt as to whether the original commission firm rendered adequate service to his principal.

The trader had done nothing illegal. If we were to investigate that case, we should have to approach it on the basis that the commission firm had not furnished proper stockyard service. We might find extenuating circumstances. Maybe the packers were reluctant to buy that day--maybe the shipper wanted his money at once--or maybe the commission man sold too quickly. Perhaps he was not fully informed of market conditions.

Recently one of our wide-awake supervisors noticed that three traders on a certain market were buying practically all of the hogs handled by five commission firms. An investigation revealed that these three traders grossed a profit of about \$50,000 a year. The traders were not doing anything wrong or illegal. At the same time they were not adding anything to the value of the hogs. What they were doing was filling and sorting the hogs. We took the position that the commission firms should do that since the shipper was paying them for such service. We took the matter up with the commission firms, and they immediately stopped the practice. Now if the commission firms can do as good a job of sorting and filling as the traders did, the shippers who consign to those five firms should receive the greater part of \$50,000 more for their hogs than they formerly did.

This appears to be a matter to which market improvement committees could devote attention. If we have to start action under the Packers and Stockyards Act to correct such conditions, the markets involved are likely to receive unfavorable publicity--perhaps in exaggerated form. We have no argument with traders as such; we are not trying to put them out of business. There are times when they are an asset to the market. But when a farmer prepares and finishes his livestock in such a condition that it is ready for slaughter, and consigns it to a commission firm to sell to packers, we think it is the duty of the commission firm to get it to the packer at a price as high as the price it would bring if middlemen operating on the market sorted it, filled it, and sold it to packers.

To what extent the volume of livestock marketed "direct" is attributable to practices with which public market agencies are in position to correct is, of course, conjectural. It occurs to us, however, that market agencies can do much to protect their own interests and the interests of those they serve by making sales in accordance with the intrinsic market value of individual consignments. By this I mean the sale of livestock on a uniform grade basis.

Livestock producers and finishers are rapidly becoming more and more "grade conscious." "Pigs is pigs" is a trite expression, but insofar as market values are concerned, it does not tell the story. In some places outside central markets, where livestock is being sold in an ever-increasing volume, consignments are being sorted closely for grade and weight, and market values are arrived at for each individual lot according to its merits.

Adherence by market agencies to a system that involves close grading would place central markets on a comparable price basis with markets where that practice is followed. It would provide evidence in tangible form to those shippers, who so often wonder whether the livestock they have spent much intelligent, painstaking effort and money in breeding, selecting, and finishing is selling for its full market value.

Some progress has been made in this direction at public markets in comparatively recent years. So-called "string sales" involving the sale of animals of different ownership and different values at a common price, are, we hope, a thing of the past. Close sorting for grade and weight, however, continues as the exception rather than the rule. This is especially true in the sheep, lamb, and calf markets. Load lots of animals consequently sell "straight across" on a "sellers market" but are closely sorted when market conditions are unfavorable to the selling side. This lack of uniform procedure must surely lead to confusion in the minds of producers to such an extent that they are unable to determine true market value of their livestock, and must lead to dissatisfaction with markets where close sorting is not practiced.

The weigh-up has caused considerable trouble. This is also a subject for your committees on those markets where it is permitted. Weigh-ups are not common on the large terminal markets of the Middle West. Some of your individual exchanges do not permit them, but on smaller markets, particularly in the South and East, there is considerable weighing-up. Much can be said both for and against it. A commission man on an eastern market pointed out that if he received five cars of hogs in a certain market on a given day, and was able to sell only three cars, he was in a position in which he had to buy the other two himself, so that he could remit to all five owners at the same time and at the same price, in order to stay in business. If he did not do that, the owners of the two cars that he was unable to sell would be looking for another commission man. At markets where a farmer drives in with one, two, or three head, in many cases he would rather let a commission firm weigh-up the livestock and pay for them than to wait for 2 or 3 hours for a settlement based on an outright sale to packers or order buyers.

We are not at present passing on the question as to whether weighing-up of livestock to its own account by a commission firm is a violation of the act. However, we cannot be enthusiastic about a commission firm weighing-up the livestock and charging the consignor a commission for doing so. In a number of instances commission firms have set up order-buying concerns as a means of getting around weighing-up livestock to themselves. This has the effect of being a subterfuge and when practiced falls in the same category as weighing-up direct. You are all well acquainted with this procedure and probably most of you are opposed to it. In most instances we do not believe that weighing-up either directly or indirectly is to the best interest of either the shipper or

the agency that engages in the practice. Under the act we require that if a market agency takes title to livestock consigned to it for sale on commission a full disclosure of this fact be made in accounting to the owner. When audits are made of the books and records of a commission firm the weigh-up account is checked carefully and if it appears that this account has been used improperly appropriate action will be taken.

Another feature about which I should like to say a few words is the weighing of livestock. This, of course, is a function of the stockyard companies. We recognize the scale ticket as the basis of livestock transactions on posted stockyards. Correct weights must be given and the scale ticket must be handled as though it were a check. The individual members of this Association can help us stamp out such evils as may exist in the weighing of livestock on posted markets. Dishonest weighing is a violation of the statute which will not be handled by negotiation or informal discussion.

In the past we have paid a great deal of attention to mechanical perfection in scales. We have maintained several technical experts who, working with stockyard company officials, have done a great deal in selling the idea of mechanically perfect equipment. Perhaps not enough attention has been paid, however, to the need for honest weighing. It does little good to have a weighing device that is mechanically perfect, unless the weighmaster manipulates the device in an impartial and honest manner. A crooked weighmaster can deduct or add to the weight of one draft as much as a mechanical error would total up in 6 months or a year's time. We solicit your support in bringing to our attention any suspicious weighing practices.

As I pointed out earlier in this discussion, my association with the administration of the Packers and Stockyards Act has been recent. Because of that, perhaps some of you who have devoted a lifetime to this business may think certain of my comments are presumptuous. My purpose is not to be critical, but helpful. Changes are taking place in all lines of endeavor. New attitudes are developing. Adjustments to meet them are inevitable. Collective action can affect the course of events and make it possible for individuals to adjust themselves more easily and quickly.